APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,487	03/14/2001	James Robert Davis	STL9-2000-0074US1	3624

45112	7590	09/12/2006

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EXAMINER
BLAIR, DOUGLAS B

ART UNIT	PAPER NUMBER
2142	

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	Applicant(s)
Office Action Summary		09/808,487	DAVIS ET AL.
		Examiner	Art Unit
		Douglas B. Blair	2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 August 2006*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 7/13/2006 has been entered.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 15-20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent

Number 6,269,402 to Lin et al..

4.   As to claim 15, Lin teaches a system for ensuring client access to unpaired messages

from a server comprising: a request module configured to receive a client request **(col. 3, lines 5-**

27, a request module is inherent to any server); a response generator which receives the client

request from the request module and generates and appropriate response message **(col. 3, lines 5-**

27, a response generator is inherent to any server); an unpaired message module which

analyzes the response message generated by the response generator and configured to distinguish

a paired message from an unpaired message in response to a communication disruption between

the client and the server **(col. 5, line 59-col. 6, line 66 and col. 6, lines 40-43, the server has**

distinguished the unpaired messages intended for the client from all other messages) and to

store paired messages in a paired response data structure **(col. 6, lines 40-43, the paired**

messages are not stored in the session transition control block so the data structure that

they are stored in is considered the paired response data structure) and unpaired messages in

an unpaired response data structure **(col. 6, lines 40-43, the unpaired messages are stored in**

the session transition control block); and a response module which communicates paired and

unpaired messages to a client **(col. 6, lines 13-46)**.

5.   As to claim 16, Lin teaches the system of claim 15, wherein the unpaired message

module is further configured to dynamically create the unpaired response data structure in

response to a first unpaired response message **(col. 5, line 35-col. 6 line 46)**.

6.   As to claim 17, Lin teaches the system of claim 15, wherein the response module is

configured to automatically send all unpaired messages stored in the unpaired response data

structure **(col. 6, lines 13-46)**.

7.   As to claim 18, Lin teaches the system of claim 15, wherein the response module is

configured to send all unpaired messages stored in the unpaired response data structure in

response to a request from the client **(col. 5, line 35-col. 6 line 46)**.

8.   As to claim 19, Lin teaches the system of claim 15, wherein the system is activated upon

the server receiving an activation request from the client **(col. 5, line 35-col. 6 line 46, then the**

client comes back the messages are retrieved).

9.   As to claim 20, Lin teaches the system of claim 15, wherein the response module notifies

the client when the unpaired response data structure contains at least one unpaired message **(col.**

6, lines 40-43, the messages are sent to the client and thus they are a notification).

Claim Rejections - 35 USC § 103

10.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

11.   Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent

Number 6,269,402 to Lin in view of U.S. Patent Number 6,877,036 to Smith et al..

12.   As to claim 1, Lin teaches a method for ensuring client access to unpaired messages from

a server, comprising: the server distinguishing, by analyzing a response message, at least one

unpaired message from a paired message in response to a communication disruption between the

client and the server **(col. 5, line 59-col. 6, line 66 and col. 6, lines 40-43, the server has**

distinguished the unpaired messages intended for the client from all other messages), the

server storing the at least one unpaired message in an unpaired message data structure, the at

least one unpaired message comprising a communication response to a client **(col. 6, lines 40-43,**

the unpaired messages are stored in the session transition control block); creating the

unpaired message data structure in a server, the unpaired message data structure configured to

store a plurality of unpaired messages intended for the client and utilizing a protocol which

allows the client to request at least one unpaired message stored in the unpaired message data

structure **(col. 6, lines 13-46)**; however Lin does not explicitly teach the unpaired message data structure being an unpaired message queue.

Smith teaches the use of an output queue in a system for managing connections between clients and server (col. 8, line 65-col. 9, line 26).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Lin regarding a system for ensuring a client access to unpaired message with the teachings of Smith regarding the use of an output queue because the use of an output queue reduces the load on a server's CPU (Smith, col. 1, lines 15-44).

13.   As to claim 2, Lin teaches the method of claim 1, wherein the method further comprising the server dynamically creating the unpaired message queue in response to the server detecting at least one unpaired message **(col. 5, line 35-col. 6 line 46)**.

14.   As to claim 3, Lin teaches the method of claim 1, wherein the method further comprising notifying the server of a client request to enable dynamic creation of the unpaired message queue **(col. 5, line 35-col. 6 line 46)**.

15.   As to claim 4, Lin teaches the method of claim 3, wherein notifying the server occurs during establishment of communications between the client and the server **(col. 5, line 35-col. 6 line 46)**.

16.   As to claim 5, Lin teaches the method medium claim 1, wherein the method further comprising the server notifying the client when the unpaired message queue contains an unpaired message **(col. 5, line 35-col. 6 line 46)**.

17.   As to claim 6, Lin teaches the method of claim 1, wherein the method further comprises: generating a request message to be sent from the client to the server **(col. 5, line 35-col. 6 line 46)**; storing an indicator in request message to enable the client to distinguish between unpaired messages **(col. 5, line 35-col. 6 line 46)**.

18.   As to claim 7, Lin teaches the method of claim 1, wherein utilizing the protocol further comprises allowing the client to request automatic transmission of unpaired messages stored in the unpaired message queue **(col. 5, line 35-col. 6 line 46)**.

19.   As to claims 8-14, they are rejected for the same reasons as claims 1-7.

Response to Arguments

20.   Applicant's arguments filed 8/16/2006 have been fully considered but they are not persuasive. The applicant's argues that since the server distinguishes by analyzing response messages that he client cannot have such management logic. However this argument is out of line with the scope of the claims. The applicant's claim language is broad and does nothing to limit the claimed client to a thin client. The applicant's argument that the claimed client is a thin client is not even valid because the applicant's claimed client is responsible for utilizing a custom protocol for retrieving unpaired messages from the server so clearly there is overhead added to the client in the implementation of this claimed protocol.

21.   In response to the applicant's complaints about the long prosecution history of this applicant, the Examiner has attempted to examine the claims in light of the applicant's disclosure but the applicant's disclosure provides few details as to relevant implementations of the applicant's invention. The applicant only vaguely defines the paired and unpaired messages on

page 8, lines 3-10 of the applicant's specification. This definition of paired and unpaired messages is completely ambiguous. It is not clear to the examiner whether the applicant intended for a paired message to be defined as a message coming from one client to a different client and an unpaired message to be defined as a response to the client request (lines 8-9) or whether the applicant intended for an unpaired message to define any message that is received out of order or whether the applicant intended something completely different that the Examiner is not realizing. Regardless of how the applicant intended to define paired an unpaired messages, any response to this office action should point out how and where paired and unpaired responses are defined by the applicant's specification if the applicant hopes to differentiate the claimed invention from the prior art. Otherwise the examiner has no choice but to use a broad interpretation for these terms.

22.   Even for arguments sake, assuming that paired and unpaired messages were clearly defined by the applicant's specification, the applicant's disclosure seems to completely ignore the OSI network protocol model. Specifically, the applicant's specification seems to operate under the premise that the Session Layer and the Application Layer are completely void of an error checking functionality. For example, wouldn't any message intended for a specific client have specific session information and would an application on the client be able to recognize data intended for it and be able to perform error processing on a message received by the application in an improper format? The relevance of the applicant's scheme for distinguishing between paired and unpaired messages is never discussed making the applicant's invention appear to add redundant overhead to the conventional client/server paradigm.
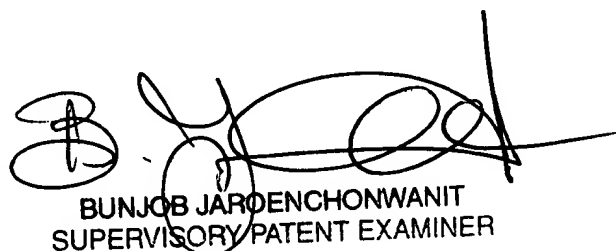
Conclusion

23.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Douglas B. Blair whose telephone number is 571-272-3893. The

examiner can normally be reached on 8:30am-5pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DBB

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SUPERVISORY PATENT EXAMINER